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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 831 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5: No

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GUMAN SHIVA VASAVA

Versus

HAMID REHMAN SHAIKH DRIVER  
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Appearance:

MR JV DESAI for Petitioner  
NOTICE SERVED for Respondent No. 1  
MR RAJNI H MEHTA for Respondent No. 2, 3  
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CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 16/06/1999

ORAL JUDGEMENT

1. This is an appeal filed by the original claimant,  
who is dissatisfied with the judgment and award dated  
December 26, 1984 passed by the Motor Accidents Claims  
Tribunal (Main), Bharuch, in Motor Accident Claim  
Petition No.339 of 1983.

2. The appellant was riding on a cycle on March 24,

1983 on the Nagal-Ankleshwar road and was going in the direction from Ankleshwar to Hansot. A motor truck bearing registration No.GTM 3421 came from the opposite direction in rash and negligent manner and dashed with the appellant, as a result of which, the appellant sustained serious injuries on his leg. The appellant was removed to Ankeleshwar Hospital, but, as the injuries sustained by him were serious in nature, he was shifted to SSG Hospital, Baroda, where he was kept as an indoor patient for 45 days, i.e. from 24.3.1983 to 7.5.1983. The appellant at the relevant time was serving with United Phosphorus Private Limited, at Ankleshwar, and was getting monthly salary of Rs.350/-. Due to the accidental injuries, he could not attend his work for 45 days. According to the appellant, he sustained permanent disability for which he produced disability certificate issued by Dr. Deepak D. Dave.

3. The appellant filed Motor Accident Claim Petition No.339 of 1983 before the Motor Accidents Claims Tribunal (Main), Bharuch, claiming compensation of Rs.60,000/- for accidental injuries. The said application was contested by the respondents and, ultimately, after leading oral as well as documentary evidence, the Tribunal awarded Rs.8000/- under the head of pain, shock and suffering, Rs.1,800/- on account of actual loss, and Rs.2000 on the count of total expenses of treatment, purchase of medicines, etc. The Tribunal came to the conclusion that the appellant was entitled to compensation of Rs.12000/-. However, the Tribunal held that the appellant was also negligent in causing of the accident and his contribution of negligence was assessed at 25%. Therefore, the Tribunal, after deducting 25% from the amount of Rs.12,000/-, awarded Rs.9000/- as compensation to the appellant for accidental injuries, with interest at the rate of 6% per annum from the date of application till realisation. The learned advocate for the appellant has not seriously challenged the finding of the Tribunal that the appellant was also negligent in driving his cycle which was assessed at 25%, and, therefore, the finding of the Tribunal to that effect requires to be confirmed.

4. It is an admitted fact that the appellant was treated as indoor patient in the SSG Hospital at Baroda for 45 days. The appellant had sustained serious injuries on his leg and, therefore, an amount of Rs.10,000/-, instead of Rs.8000/-, deserves to be granted as compensation under the head of pain, shock and suffering. The appellant in his deposition before the Tribunal has stated that he had incurred expenses of Rs.3000/- towards medicine and other charges while he was

in the hospital. Therefore, the appellant would be entitled to receive compensation of Rs.3000/- under the head of medicines and other expenses.

5. The learned advocate for the appellant has vehemently submitted that the appellant was belonging to Ankleshwar town and he was admitted in the hospital at Vadodara for 45 days and, therefore, it is urged that some reasonable amount should be awarded for the gratuitous service rendered by the relatives of the appellant while he was in the hospital. The submission of the learned advocate for the appellant deserves to be accepted. Looking to the duration of the hospitalisation, in my opinion, Rs.1000.00 deserves to be awarded to the appellant for the gratuitous service rendered by the relatives to him while he was in the hospital.

6. According to the disability certificate issued by Dr. Dave, the appellant suffered 10% permanent partial disablement. The appellant was earning Rs.350/per month at the relevant time. In my opinion, looking to the injuries and disability, as stated by Dr. Dave, permanent partial disability should be assessed at Rs.50/per month which would come to Rs.600/- per year. The appellant at the time of the accident was 25 years old and, therefore, proper multiplier of 15 should be adopted in assessing future economic loss and, therefore, in my opinion, the appellant is entitled to Rs.9000/- towards the head of future loss of income suffered by the appellant due to disability. According to the appellant, he was earning Rs.350/- per month. As the appellant could not attend to his avocation for six months, he is entitled to Rs.2100 towards actual loss suffered by him.

7. As a result of foregoing discussion, the appellant would be entitled to the following compensation on different heads:

Rs.10,000.00 for pain, shock and suffering,  
Rs. 9,000.00 towards future economic loss,  
Rs. 3,000.00 for purchase of medicine  
Rs. 2,100.00 towards actual loss  
Rs. 1,000.00 towards gratuitous service rendered by  
the relatives to appellant

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Rs.25,100.00

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The appellant had contributed to causing of accident which was assessed at 25% and, therefore, an amount of Rs.6,200/- to be deducted from the amount of compensation of Rs.25,100.00. therefore, the appellant is entitled to

receive compensation of Rs.18,900/- instead of Rs.9,000/awarded by the Tribunal. The appellant would be entitled to interest at the rate of 9% on the additional amount of compensation awarded by this Court from the date of application till realisation.

8. In the result, the appeal is partly allowed. The appellant is entitled to receive compensation of Rs.18,900/- instead of Rs.9,000.00 awarded by the Tribunal. The appellant would be entitled to interest at the rate of 9% per annum on the additional amount of compensation awarded by this Court from the date of application till realisation. The respondent No.3 is directed to deposit additional amount of compensation and interest at the rate of 9% per annum on the additional amount of compensation from the date of application till realisation within eight weeks from today before the Tribunal at Bharuch. There shall be no order as to costs.

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(swamy)